AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE   Page 8
Serial Number: 10/686,102   Dkt: 2054.001US3
Filing Date: October 14, 2003
Title: METHOD AND SYSTEM TO INITIATE GEOLOCATION ACTIVITIES ON DEMAND AND RESPONSIVE TO RECEIPT OF
           A QUERY

REMARKS

This responds to the Office Action mailed on <u>October 19, 2005</u>.

No claims have been amended, canceled, or added; as a result, claims 1-36 are pending in this application.

§102 Rejection of the Claims

Claims 1, 4-7, 9-15, 18, 21-24 and 26-32, and 35-36 were rejected under 35 U.S.C. § 102(e) for anticipation by Akatsu et al. (U.S. 6,523,064). This rejection is respectfully traversed.

Anticipation requires the disclosure in a single prior art reference of each element of the claims under consideration. *In re Dillon,* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991).

Akatsu recites:

"In accordance with a first aspect of the present invention, a gateway device comprises a central processing unit, an external network interface, an internal network interface, and a positioning unit each coupled to the central processing unit. The gateway device further comprises a persistent memory, also coupled to the central processing unit, wherein the persistent memory is configured to store statistical data pertaining to content received through the external network interface as well as geographic location information. The gateway device is configured to collecting statistical geographic location information. According to an embodiment, a method for collecting the statistical geographic location information comprises: storing geographic location information in a persistent memory dedicated to a positioning unit, sampling incoming data passing between the external network interface and the internal network interface of the gateway device, recording the sampled incoming data in a persistent data table, *receiving a request, the request comprising a demand for information contained in the persistent data table,* and in response to the request, transmitting information contained in the persistent data table together with geographic location information." Abstract of Akatsu (emphasis added).

Akatsu at col. 8, lines 32-60 recites:

"FIG. 8 depicts a firmware stack 800, employed by the home gateway 504. An operating system (OS) kernel 804 resides at the core of the firmware stack 800, and communicates with a service controller 808, system management 812, ATM driver 816

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE ·   Page 9
Serial Number: 10/686,102   Dkt: 2054.001US3
Filing Date: October 14, 2003
Title: METHOD AND SYSTEM TO INITIATE GEOLOCATION ACTIVITIES ON DEMAND AND RESPONSIVE TO RECEIPT OF A QUERY

and 1394 driver 820. The ATM driver 816 communicates with the service controller 808, the 1394 driver 820 and various hardware components 824 (i.e., physical electronics components in the home entertainment system 500.). Similarly, the 1394 driver 820 communicates with the service controller 808, ATM driver 816 and hardware 824. "System management 812 includes functions for initialization, self-diagnostics, system health checking and debugging. Service controller 808 includes functions for MPEG TS and EPG filtering and multicasting, IP routing and terminal functions, MPEG over the 1394 bus and MPEG over ATM, as well as IP over 1394 bus and IP over ATM, address mapping, home network service command and control (e.g., MPEG service control, TV image control, remote handling, and camera control), and other functions (e.g., gaming, home automation, and directory services)

"The 1394 driver 820 realizes asynchronous data transmission, isochronous data transmission, physical layer control packet transmission, bus reset and control, root and cycle master processing, configuration status register and configuration ROM handling, bus management and address mapping table updates, whereas the ATM driver 816 realizes ATM pack transmission and ATM permanent virtual connection ("PVC") establishment and release."

Akatsu further recites at col. 11, lines 4-62:

"In the MPEG service section 1624, the first column is the ATM VPI/VCI column 1632, the next column is the program information column 1636, the third column is the IEEE 1394 isochronous channel column 1640 and the last column is the node unique ID column 1604.

"In the IP service section 1628, the first column is the ATM VPI/VCI column 1632, the next column is the IP address column 1618, the third column is the node_ID column 1612, and the last column is the node unique ID column 1604.

"The address mapping table 1600 is created by the IEEE 1394 driver (e.g., IEEE 1394 driver 816 shown in FIG. 8) when a bus reset occurs. The IEEE 1394 driver receives a response from each node in the IEEE 1394 bus (e.g., IEEE 1394 bus 568 shown in FIG. 5) identifying the node's node unique ID and other information. Based on the information received from the node, the IEEE 1394 driver adds the node unique ID to the address mapping table 1600 and then queries the particular node for additional information (e.g., common name, node capabilities and IP address). The IEEE 1394 driver assigns a valve to node_ID column 1612 for the node.

"Command and Control Transfer

"FIGS. 14-17, depict aspects of command and control transfer according to a presently preferred embodiment of the present invention. Moreover, FIGS. 14 and 15 are flowcharts illustrating the steps for command and control transfer and packet data handling, respectively, whereas FIGS. 16A-C depict an embodiment of the display information that is created on a video display unit as a result of the steps depicted in FIGS. 14 and 15. FIG. 17 illustrates a node icon table.

"To begin the command and control transfer process, a trigger is received. For example, a trigger can include a "menu" button on a remote control that initiates the command and

control transfer process, or a stored procedure in a device residing in the home
entertainment network 500. As shown in FIG. 14, a packet engine output from process
1804 (described below with reference to FIG. 15) can initiate the acts for command and
control transfer.

"Act 1704 includes reading the address mapping table 1600. Once the address mapping
table 1600 is read, a node icon table is read in act 1708.

"The node icon table has no less than two columns and identifies an image for each
device on the home entertainment network 500. The first column represents a node (for
example, either a node unique ID or a node type), and the second column represents the
node's icon. It is, however, possible to have additional columns in the table, such as a
node type, and a node unique ID. Accordingly, if a particular node's icon is desired, the
first the node icon table is scanned for the node's unique ID, if the node unique ID is not
found, then the node icon table is scanned for the desired node type (e.g., the node can be
compliant with a particular device standard). When a matching node unique ID or,
alternatively, a matching node type is found, then the icon for the desired node is
retrieved at act 1716."

Applicants respectfully submit that independent claims 1, 18, 35 and 36 are not
anticipated because Akatsu simply fails to teach each and every claimed element, e.g., "a query,
including a network address" as recited in independent claims 1, 18, 35 and 36.

Portions of Akatsu, including the Abstract, col. 8, lines 32-60, and col. 11, lines 4 to 62,
have been reproduced herein to assist the Examiner in assessing the limited extent of the
disclosure in this reference. For example, the Abstract of Akatsu recites "*receiving a request, the
request comprising a demand for information contained in the persistent data table.*" This
recitation from Akatsu of having the request comprise "a demand for information" is quite
different from the claimed language of having the query include "a network address." For this
reason, Akatsu simply cannot be relied upon to anticipate independent claims 1, 18, 35 and 36.

The Action at pages 3 and 8 indicates that col. 8, lines 32 to 60 of Akatsu, specifically the
service controller 808, and col. 11, lines 4 to 62 of Akatsu, specifically the address mapping table
1600 of FIG. 13, disclose and/or is equivalent to the above-recited claimed elements.
Applicants respectfully disagree.

In particular, the Action states that Akatsu discloses a 'service controller (808, FIG. 8) for
.... address mapping and mapping table updates.' However, there is no support in the Action
that Akatsu's references to "address mapping" or "mapping tables" are in fact equivalent to the
claimed element of the query "including a network address." In fact, in contrast to the current

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE ·   '   Page 11
Serial Number: 10/686,102   Dkt: 2054.001US3
Filing Date: October 14, 2003
Title: METHOD AND SYSTEM TO INITIATE GEOLOCATION ACTIVITIES ON DEMAND AND RESPONSIVE TO RECEIPT OF
         A QUERY

claims, Applicants respectfully submit that the address mapping referred to in Akatsu may be
considered as mapping from one protocol to another. See for instance
http://www.unm.edu/~network/presentations/course/chap7/sld027.htm, where IP Network
Address Mapping is discussed as follows: "Translation from logical address (IP address) to an
equivalent physical hardware address (Ethernet address); required for information exchange
between host-to-host and host-to-router located on the same physical network." Because the
interpretation of Akatsu's address mapping as mapping from one protocol to another may be
considered as consistent with the disclosure of Akatsu, the service controller 808 simply cannot
be used as support to find equivalency in Akatsu for the claimed element of "a query, including a
network address." Therefore, Akatsu simply cannot be relied upon to anticipate independent
claims 1, 18, 35 and 36.

      The Action further states that an address mapping table (1600, FIG. 13) of Akatsu is for
querying a particular node address. However, querying for a particular node address (e.g.,
seeking an address) is actually quite different than using the network address itself in the query,
as disclosed in the claims. Therefore, the address mapping table 1600 simply cannot be used as
support to find equivalency in Akatsu for the claimed element of "a query, including a network
address."

      Because all the elements of the independent claims are not found in Akatsu, Applicants
assume that the Examiner is asserting that these elements are inherent in Akatsu. As recited in
MPEP § 2112, "In relying upon the theory of inherency, the Examiner must provide basis in fact
and/or technical reasoning to reasonably support the determination that the allegedly inherent
characteristic necessarily flows from the teachings of the applied prior art," citing Ex parte Levy,
17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

      Applicants respectfully submit that the Office Action has not established a prima facie
case of inherency because "a query, including a network address" does not necessarily flow from
Akatsu. The Action merely stated that Akatsu discloses equivalency to "a query, including a
network address" because of the above-recited portions of Akatsu. Thus, the Office Action does
not even assert that the allegedly inherent characteristic is necessary in Akatsu, let alone provide
a basis in fact and/or technical reasoning.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE ·   Page 12
Serial Number: 10/686,102   Dkt: 2054.001US3
Filing Date: October 14, 2003
Title: METHOD AND SYSTEM TO INITIATE GEOLOCATION ACTIVITIES ON DEMAND AND RESPONSIVE TO RECEIPT OF A QUERY

Further, the viable interpretation of Akatsu's address mapping as 'mapping from one protocol to another' precludes the possibility that "a query, including a network address" necessarily flows from Akatsu.

Because there is no evidence in the record to support such inherency assertions, the unsupported assertions appear to be personal knowledge of the Examiner. The Examiner is thus respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

Without the requisite extrinsic evidence, the Office Action has not made out a *prima facie* case of anticipation. Accordingly, independent claims 1, 18, 35 and 36 are patentable over Akatsu, and Applicants respectfully request that the rejection be withdrawn.

Claims 4-7, 9-17, 21-24 and 26-34 depend from independent claim 1 or 18 and incorporate all of the limitations therein, respectively. Claims 4-7, 9-17, 21-24 and 26-34 are also asserted to be allowable for the reasons presented above, and Applicants respectfully request notification of same. Applicants consider additional elements of claims 4-7, 9-17, 21-24 and 26-34 to further distinguish over the cited reference, and Applicants reserve the right to present arguments to this effect at a later date.

§103 Rejection of the Claims

Claims 2, 8, 19 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Akatsu in view of Zoken et al (U.S. 5,944,787). This rejection is respectfully traversed.

Claims 2, 8, 19, and 26 depend from independent claim 1 or 18 and incorporate all of the limitations therein, respectively. Claims 2, 8, 19, and 26 are also asserted to be allowable for the reasons presented above, and Applicants respectfully request notification of same. Applicants consider additional elements of claims 2, 8, 19, and 26 to further distinguish over the cited references, and Applicants reserve the right to present arguments to this effect at a later date.

Allowable Subject Matter

Claims 16, 17, 33, and 34 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 16, 17, 33, and 34 depend from

claim 1 or claim 18. Because claims 1 and 18 are in condition for allowance, as discussed above; claims 16, 17, 33, 34 are also allowable as originally submitted since they are dependant upon claims which are believed to be allowable. Applicants respectfully submit that claims 16, 17, 33, 34 are in condition for allowance.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney Lucinda Price at 352-373-8804 (Gainesville, Florida) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

MARK ANDERSON ET AL.

By their Representatives,

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Date Dec. 19, 2005   By _____
                           Lucinda G. Price
                           Reg. No. 42,270

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19 day of December, 2005.

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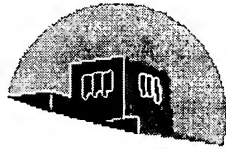
AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE

Serial Number: 10/686,102
Filing Date: October 14, 2003
Title: METHOD AND SYSTEM TO INITIATE GEOLOCATION ACTIVITIES ON DEMAND AND RESPONSIVE TO RECEIPT OF
          A QUERY

Page 14
Dkt: 2054.001US3

Enclosure: http://www.unm.edu/~network/presentations/course/chap7/sld027.htm

IP Network Address Mapping

The University of New Mexico

- Logical: IP addresses define Layer 3 (Network Layer) logical addresses
- Physical: Layer 2 (Data Link Layer) physical addresses is a function of IP addresses
- Address Resolution (Mapping): Translation from logical address (IP address) to an equivalent physical hardware address (Ethernet address) ; required for information exchange between host-to-host and host-to-router located on the same physical network

Slide 27 of 78